

Instructions for Form 8898

(March 2006)



Department of the Treasury
Internal Revenue Service

Statement for Individuals Who Begin or End Bona Fide Residence in a U.S. Possession

General Instructions

Section references are to the U.S. Internal Revenue Code, unless otherwise specified.

Purpose of Form

Use Form 8898 to notify the IRS that you became or ceased to be a bona fide resident of a U.S. possession in accordance with section 937(c). See *Bona Fide Residence*, on this page. For this purpose, the following are considered U.S. possessions: American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Who Must File

You must file Form 8898 for the tax year (beginning with tax year 2001) in which you meet both of the following conditions:

1. Your worldwide gross income (defined below) in that tax year is more than \$75,000, and
2. You meet one of the following:
 - a. You take a position for U.S. tax purposes that you became a bona fide resident of a U.S. possession after a tax year for which you filed a U.S. income tax return as a citizen or resident of the United States but not as a bona fide resident of the possession.
 - b. You are a citizen or resident of the United States who takes the position for U.S. tax purposes that you ceased to be a bona fide resident of a U.S. possession after a tax year for which you filed an income tax return (with the IRS, the possession tax authorities, or both) as a bona fide resident of the possession.
 - c. You take the position for U.S. tax purposes that you became a bona fide resident of Puerto Rico or American Samoa after a tax year for which you were required to file an income tax return as a bona fide resident of Guam or the CNMI.

When figuring whether your worldwide gross income is more than \$75,000, do not include any of your spouse's income. If both you and your spouse are required to file Form 8898, file a separate Form 8898 for each of you.

Worldwide gross income. Worldwide gross income means all income you received in the form of money, goods, property, and services, including any income from sources outside the United States (even if you may exclude part or all of it) and before any deductions, credits, or rebates.

Example. You moved to the CNMI in December 2002 but did not become a

bona fide resident of that possession until the 2003 tax year. You must file Form 8898 for the 2003 tax year if your worldwide gross income for that year is more than \$75,000.

When and Where To File

File Form 8898 by the due date (including extensions) for filing Form 1040 or Form 1040NR. File the form by itself at the following address:

Internal Revenue Service Center
11601 Roosevelt Blvd.
Philadelphia, PA 19154

Note. For tax years 2001 through 2005, mail Form 8898 to the above address by June 15, 2006.

Penalty for Not Filing Form 8898

If you are required to file Form 8898 for any tax year, and you fail to file it or do not include all the information required by the form or the form includes incorrect information, you may owe a penalty of \$1,000, unless it is shown that such failure is due to reasonable cause and not willful neglect. This is in addition to any criminal penalty that may be imposed.

Bona Fide Residence

Because of changes to the law, different rules may apply to specific years for determining whether you were a bona fide resident of a U.S. possession.

2001 through 2003 tax years. If you became or ceased to be a bona fide resident in a tax year ending before October 23, 2004, see *Test for Tax Years Ending Before October 23, 2004*.

2004 tax year-- Tax years beginning before October 23, 2004, and ending after October 22, 2004. For 2004, you can use either of the following to determine if you are a bona fide resident.

- *Test for Tax Years Ending Before October 23, 2004.*

- Rules in Temporary Regulations section 1.937-1T, 2005-20 I.R.B. 1039, available at www.irs.gov/pub/irs-irbs/irb05-20.pdf.

Generally, the rules in the temporary regulations for 2004 are similar to the tax home and closer connection tests (excluding the year-of-move exception) discussed in these instructions.

2005 tax year--Tax years beginning after October 22, 2004, and ending before February 1, 2006. For 2005, you can use either of the following to determine if you are a bona fide resident.

- *Test for Tax Years Ending After January 31, 2006.*

- Rules in Temporary Regulations section 1.937-1T, 2005-20 I.R.B. 1039, available at www.irs.gov/pub/irs-irbs/irb05-20.pdf.

For 2005, the rules in the Temporary Regulations are similar to the presence test, tax home test, and closer connection test (excluding the year-of-move exception) discussed in these instructions and it generally will be to your advantage to use the rules under *Test for Tax Years Ending After January 31, 2006*.

2006 and later tax years. If you became or ceased to be a bona fide resident in a tax year ending after January 31, 2006, see *Test for Tax Years Ending After January 31, 2006*.

Test for Tax Years Ending Before October 23, 2004

For U.S. citizens, the test for determining whether you are a bona fide resident of a U.S. possession is based on your intentions with regard to the length and nature of your stay in the possession, as shown by your particular facts and circumstances. Accordingly, the following factors may be considered in determining your intent to be a bona fide resident of the relevant possession:

- Your establishment of a permanent home for you and members of your family in the possession for an indefinite period of time. See *Permanent home*, on page 3.
- Your marital status and residence of your family.
- Your social, cultural, and economic ties to the possession.
- Your physical presence in the possession. See, for example, *Days of presence in the United States or U.S. possession* on page 2.
- Your reasons for, and the nature and extent of, temporary absences.
- Your assumption of economic burdens and payment of taxes to the possession.
- Your home(s) outside of the possession.
- Your place of employment.
- Your tax home (see *Tax Home Test* on page 2).
- Your location where you are registered to vote.
- Your address on your driver's license.

This is not an exclusive list; other relevant factors may be considered.

Test for Tax Years Ending After January 31, 2006

You are a bona fide resident of a U.S. possession if you:

- Do not have a tax home outside the possession,
- Do not have a closer connection to the United States or to a foreign country than to the possession, and

- Meet the presence test (defined on pages 2 and 3).

Special rule for members of the U.S. Armed Forces. If a member of the U.S. Armed Forces qualified as a bona fide resident of the relevant possession in an earlier tax year, his or her absence from that possession during the current tax year in compliance with military orders will not affect the individual's status as a bona fide resident. Likewise, being in a possession solely in compliance with military orders will not qualify an individual for bona fide residency.

Exception for the Year of the Move

An exception applies to the tax home and the closer connection tests for the tax year you moved to or from the possession. Under this exception, you satisfy the tax home and the closer connection tests for the tax year of the move if you meet the requirements explained next.

Also, a special exception applies to the bona fide residence test for the tax year you moved from Puerto Rico. Under this exception, you satisfy the bona fide residence test for the tax year you moved from Puerto Rico if you meet the requirements discussed later under *Year of the move from Puerto Rico*.

Year of the move to the possession.

You satisfy the tax home and closer connection tests for the tax year you moved to the possession if you meet all of the following.

- You were not a bona fide resident of the possession in any of the 3 tax years immediately preceding the tax year of the move.
- You did not have a tax home outside the possession during any part of the final 183 days of the tax year of the move.
- You are a bona fide resident of the possession for the 3 tax years immediately following the tax year of the move.

If you do not meet all of the above conditions, you do not meet the tax home and closer connection tests under this exception. Instead, you must meet the requirements explained later under *Tax Home Test* and *Closer Connection Test*.

Year of the move from the possession.

You satisfy the tax home and closer connection tests for the tax year you moved from American Samoa, the CNMI, Guam, or the U.S. Virgin Islands if you meet all of the following.

- You were a bona fide resident of the possession for the 3 tax years immediately preceding the tax year of the move.
- You did not have a tax home outside the possession during any part of the first 183 days of the tax year of the move.
- You are not a bona fide resident of the possession in any of the 3 tax years immediately following the tax year of the move.

If you do not meet all of the above conditions, you do not meet the tax home and closer connection tests under this exception. Instead, you must meet the requirements explained later under *Tax Home Test* and *Closer Connection Test*.

Year of the move from Puerto Rico.

You qualify as a bona fide resident of Puerto Rico for the part of the tax year before the date you moved from Puerto Rico if you meet all of the following requirements.

1. You are a U.S. citizen.
2. You were a bona fide resident of Puerto Rico for at least 2 tax years immediately before the tax year of the move.
3. In the year of the move, you:
 - a. Ceased to be a bona fide resident of Puerto Rico.
 - b. Ceased to have a tax home in Puerto Rico.
4. You had a closer connection to Puerto Rico than to the United States or a foreign country during the part of the tax year before the date on which 3(b) above occurred.

If you do not meet all of the above requirements, you are not a bona fide resident of Puerto Rico in the year of the move under this exception. Instead, you must meet the requirements explained next under *Tax Home Test*, *Closer Connection Test*, and *Presence Test*.

Tax Home Test

Under the tax home test, you generally cannot have a tax home outside the possession during any part of the tax year. Your tax home is your regular or main place of business, employment, or post of duty regardless of where you maintain your family home. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit either of these categories, you are considered an itinerant and your tax home is wherever you work.

Special rules for students and government officials.

Disregard the following days when determining whether you have a tax home outside the possession.

- Days you were temporarily in the United States as a student (see *Student* defined on page 3).
- Days you were in the United States serving as an elected representative of the possession, or serving full time as an elected or appointed official or employee of the government of the possession (or any of its political subdivisions).

Special rule for seafarers. You will not be considered to have a tax home outside the possession solely because you are employed on a ship or other seafaring vessel that is predominantly used in local and international waters. For this purpose, a vessel will be considered to be predominantly used in local and international waters if, during the tax year, the total amount of time it is used in international water and in water within 3 miles of the possession exceeds the total amount of time it is used in the territorial water of the United States, another possession, or any foreign country.

Closer Connection Test

You meet the closer connection test if you do not have a closer connection to the

United States or a foreign country than to the U.S. possession.

You are considered to have a closer connection to a possession than to the United States or to a foreign country if you have maintained more significant contacts with the possession(s) than with the United States or foreign country. Significant contacts that may be considered include:

1. The location of:
 - a. Your permanent home,
 - b. Your family,
 - c. Your current social, political, cultural, or religious affiliations,
 - d. Where you conduct your routine personal banking activities, and
 - e. The jurisdiction in which you hold a driver's license.
2. The country of residence you designate on forms and documents.

Your connections to the possession will be compared to the total of your connections with the United States and foreign countries. Your answers to the questions on Form 8898, Part III, will help establish the jurisdiction to which you have a closer connection.

Presence Test

You meet the presence test for the tax year if you meet one of the following conditions.

1. You were present in the possession for at least 183 days during the tax year.
2. You were present in the United States for no more than 90 days during the tax year.
3. You had \$3,000 or less of earned income from U.S. sources and were present for more days in the possession than in the United States during the tax year. See the instructions for line 7 for the definition of earned income from U.S. sources.
4. You had no significant connection (defined on page 3) to the United States during the tax year.



If you are a nonresident alien, see *Special rule for nonresident aliens*, on page 3.

Days of presence in the United States or U.S. possession.

Generally, you are treated as being present in the United States or in the possession on any day that you are physically present in that location at any time during the day. If, during a single day, you were physically present in the United States and a possession, that day is counted as a day of physical presence in the possession. If, during a single day, you were physically present in two possessions, that day is counted as a day of physical presence in the possession in which you have your tax home.

Count the following days as days of presence in the possession for purposes of the presence test. Do not count them as days of presence in the United States.

- Days you were outside the possession to receive (or to accompany on a full-time basis a parent, spouse, or child who is receiving) qualified medical treatment (defined on page 3). For this purpose, the child must be your son, daughter,

stepchild, foster child, adopted child, or a child lawfully placed with you for legal adoption.

- Days you were outside the possession because you left or were unable to return to the possession during any 14-day period within which a major disaster occurred in the possession that was declared a disaster area by the President.
- Days you were outside the possession because you left or were unable to return to the possession during any period for which a mandatory evacuation order was in effect for the area in the possession where you resided.

Do not count the following days as days of presence in the United States for purposes of the presence test.

- Days you were in the United States for less than 24 hours when you were traveling between two places outside the United States.
- Days you were temporarily present in the United States as a professional athlete to compete in a charitable sports event (defined later).
- Days you were temporarily in the United States as a student (defined later).
- Days you were in the United States serving as an elected representative of a possession, or serving full time as an elected or appointed official or employee of the government of the possession (or any of its political subdivisions).

Qualified medical treatment. This is medical treatment provided by (or under the supervision of) a physician for an illness, injury, impairment, or physical or mental condition. The treatment must involve:

- A period of inpatient care (requiring an overnight stay) in a hospital or hospice and any period immediately before or after that inpatient care to the extent it is medically necessary, or
- A temporary period of inpatient care (requiring an overnight stay) in a residential medical care facility for medically necessary rehabilitation services.

You must keep records of your qualified medical treatment. For details on the records you must keep, see Pub. 570, Tax Guide for Individuals With Income From U.S. Possessions.

Charitable sports event. A charitable sports event is one that meets the following conditions.

- The main purpose is to benefit a qualified charitable organization.
- The entire net proceeds go to charity.
- Volunteers perform substantially all the work.

See Pub. 78 for a listing of most qualified organizations. You can access Pub. 78 on the IRS website at www.irs.gov under *Charities and Non-Profits*. In figuring the days of presence in the United States, you can exclude only the days on which you actually competed in a sports event. You cannot exclude the days on which you were in the United States to practice for the event, to perform promotional or other activities related to the event, or to travel between events.

Student defined. To qualify as a student, you must be, during some part of

each of 5 calendar months during the calendar year (not necessarily consecutive):

1. A full-time student at a school that has a regular teaching staff, course of study, and regularly enrolled body of students in attendance, or
2. A student taking a full-time, on-farm training course given by a school described in (1) above or a state, county, or local government.

Full-time student defined. A full-time student is a person who is enrolled for the number of hours or courses the school considers to be full-time attendance.

School defined. The term “school” includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade, and mechanical schools. It does not include on-the-job training courses, correspondence schools, and Internet schools.

Significant connection. You have a significant connection to the United States if:

1. You have a permanent home (defined later) in the United States,
2. You are registered to vote in any political subdivision of the United States, or
3. You have a spouse or child under 18 whose principal home is in the United States. For this purpose—
 - a. A spouse does not include a spouse from whom you are legally separated under a decree of divorce or separate maintenance.
 - b. The child must be your son, daughter, stepchild, foster child, adopted child, or a child lawfully placed with you for legal adoption. But a child does not include:
 - i. A child who lives in the United States with a custodial parent under a custodial decree or multiple support agreement, or
 - ii. A child who is in the United States as a student (defined earlier).

Permanent home. A permanent home generally includes accommodations such as a house, an apartment, or a furnished room that is available at all times, continuously and not solely for short stays. However, if you or your spouse owns the dwelling unit and rents it to someone else during the tax year, the dwelling unit is not your permanent home unless, during that tax year, you use some part of it for personal purposes for more than the greater of:

- 14 days, or
 - 10% of the days the property is rented to others at a fair rental price.
- Generally, the rental property is considered used for personal purposes on any day it is used by you, a family member, or anyone else who has an interest in the property. The rental property is not considered used for personal purposes on any day on which the principal purpose for using the property is to do repair or maintenance work. For more information on determining whether the rental property was used for personal purposes, see Pub. 570.

Special rule for nonresident aliens.

The presence test does not apply to nonresident aliens. Instead, nonresident aliens must meet the substantial presence test discussed in chapter 1 of Pub. 519, U.S. Tax Guide for Aliens. In that discussion, substitute the name of the possession for “United States” and “U.S.” wherever they appear. Also disregard the discussion in that chapter about a *Closer Connection to a Foreign Country*.

Specific Instructions

Unless otherwise specified, answers to questions seeking information for a tax year generally refer to the tax year in which you became (or ceased to be) a bona fide resident.

Name and social security number (SSN). If you file a joint return, enter only the name and SSN of the spouse whose information is being reported on Form 8898. If both you and your spouse are required to file Form 8898, file a separate Form 8898 for each of you.

Line 1

Check box a or b, whichever applies, and enter the tax year you became or ceased to be a bona fide resident of a U.S. possession in the line provided.

Example. Mr. Grey, a U.S. citizen, moved from New York to the U.S. Virgin Islands on March 1, 2005. He chooses to use the test for tax years ending after January 31, 2006. He meets the tax home and closer connection tests under the exception for year of the move. He also meets the presence test for 2005. Thus, he became a bona fide resident of the U.S. Virgin Islands in 2005. He checks box a on line 1 and enters “2005” on the line provided.

Line 2

If you are not a U.S. citizen, you are either a nonresident alien or resident alien of the United States. You are considered a resident alien of the United States for U.S. tax purposes if you meet either the green card test or the substantial presence test for the calendar year (January 1 through December 31). If you do not meet either of those tests, you are considered a nonresident alien. For more information about these tests, get Pub. 519.

Line 4

If you checked line 1, box a, enter on line 4a the exact date (month/day/year) you moved to a possession to establish bona fide residence. If you checked line 1, box b, enter on line 4b the exact date (month/day/year) you moved from the possession to end bona fide residence.

Example. Mr. Grey, a U.S. citizen, moved from New York to the U.S. Virgin Islands on March 1, 2005. Mr. Grey would enter “March 1, 2005” on line 4a.

Line 7

Earned income is wages, salaries, professional fees, and other amounts

received as compensation for personal services actually rendered, including the fair market value of all remuneration paid in any medium other than cash. Professional fees include all fees received by an individual engaged in a professional occupation (such as doctor or lawyer) in the performance of professional activities. The source of your earned income is the place where you perform the services for which you received the income. For example, earned income is from U.S. sources if the services that produced the income were performed in the United States.

Lines 11 and 12

See *Permanent home*, earlier. If you have more than one home, your principal permanent home is ordinarily the permanent home you live in most of the time.

Line 13

Your immediate family means your spouse and minor children.

Line 22

Under state law, a homestead exemption may:

1. Protect the owner of real property from a forced sale or seizure of the property from creditors (for example, in a bankruptcy proceeding), or
2. Provide a reduction in state or local real property taxes to qualified homeowners.

In some states, for individuals to avail themselves of these privileges, state laws require a designation of the homestead property, the filing or recordation of a declaration to make the exemption operative, or an application for the homestead tax exemption. If either of the following apply, answer yes on line 22 and indicate the state in which such

designation, declaration, recordation, application, or property tax exemption was made.

1. You made a designation of homestead property or otherwise filed or recorded a declaration concerning property under a state homestead exemption law, or
2. You applied for or took a homestead tax exemption from state or local property taxes.

Lines 26 and 27

See Pub. 570, chapter 2, for information to determine the source of income.

Line 28

For stocks and bonds, indicate the country of origin of the stock company or debtor, and for U.S. companies or debtors, the state or possession of incorporation or formation. For example, if you own shares of a U.S. publicly-traded Delaware corporation, the investment is considered located in the United States (that is, Delaware), even though the shares of stock are stored in a safe deposit box in a foreign country or possession.

Line 33

A gain is the amount you realize from a sale or exchange of property that is more than its adjusted basis. See Pub. 544, Sales and Other Dispositions of Assets, for the definitions of amount realized and adjusted basis.



Special source rules apply to gains from dispositions of certain property within 10 years of becoming a bona fide resident of a U.S. possession. See Special rules for gains from dispositions of certain property in Pub. 570 for more information.

Privacy Act and Paperwork Reduction Act Notice. We ask for this information to carry out the Internal Revenue laws of the United States. Section 937(c) and its regulations require that you give us the information. We need it to determine if you are a bona fide resident of a U.S. possession. If you do not provide this information or provide false information, you may be subject to penalties. We may disclose this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expense required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.
